

**HUD HOUSING CERTIFICATE FUND
NEGOTIATED RULEMAKING ADVISORY COMMITTEE
JUNE 2-3, 1999 MEETING SUMMARY**

I. INTRODUCTION

The HUD Housing Certificate Fund Negotiated Rulemaking Advisory Committee held its third meeting on June 2-3, 1999 at the Dulles Hyatt. The Committee was established by HUD as required by the Quality Housing and Work Responsibility Act of 1998. It is chartered as an Advisory Committee under the Federal Advisory Committee Act, and its procedures are governed by the Negotiated Rulemaking Act of 1990.

The Charter for the Committee states "The purpose of the Committee is to discuss and negotiate a rule that would change the current method of distributing funds to public housing agencies (PHAs) for purposes of renewing assistance contracts in the tenant-based Section 8 program. The committee will consist of persons representing stakeholder interests in the outcome of the rule."

The Committee's thirty-one members include representatives of public housing agencies (20); national associations of public housing agencies (4); public interest groups representing the interests of low-income households and Section 8 residents (4); independent public accountants who assist PHAs in meeting HUD Section 8 program budget and accounting requirements.

The Committee's work is being facilitated by the Consensus Building Institute, a neutral non-profit organization that assists stakeholders in reaching consensus on public policy issues, under a cooperative agreement with HUD. The Committee is also being assisted by Andersen Consulting, which will model and analyze data on renewal funding issues under contract with HUD.

This draft meeting summary was prepared by the Consensus Building Institute. It is intended to summarize the range of views on each topic that the Committee discussed, points of agreement and disagreement, and action items. It is not intended to be a transcript of the meeting. Individuals making presentations to the Committee are identified by name. Views expressed during the Committee's discussions are summarized either without attribution, or with attribution to individuals as members of a stakeholder group (HUD, PHA, PHA association, S.8 household, IPA).

II. MEETING WELCOME AND INTRODUCTIONS

CBI facilitators Larry Susskind and David Fairman welcomed everyone and asked first time participants, alternates and visitors to introduce themselves (see Attachment 1, List of Attendees). They then reviewed the agenda for the meeting and reminded the

Committee about the negotiated rulemaking charter, the ground rules and goals of this negotiation. Committee members were asked to submit comments and corrections to CBI by June 10, 1999 on the draft April meeting summary, the draft ground rules and any other documents. CBI will develop a final Convening Report and other documents once the review process is completed. Several Committee members with specific concerns about corrections to charts and documents agreed to meet over lunch. There was interest expressed in using Web sites to make the Committee's work more accessible. HUD, CBI and many Committee members have Web sites that could be used.

III. WORKING GROUP MEETING UPDATE - BASELINE RESOLUTION REVIEW

CBI facilitator Tom Fee described the May 20 meeting as an opportunity for Committee members to educate each other about the key issues. The first issue discussed was the baseline determination process, what date to use to set a baseline and how to refine it. Three Committee members reported on issues raised at the Working Group: 1) resolution of baseline-setting issues; 2) hybrid, unit, and dollar allocation system options; and 3) adjustment/inflation factors.

Mary James reported on how her PHA fiscal staff and her regional/area manager reviewed their baseline numbers. They learned that the mistakes were due mostly to careless errors and data entry errors. They also discerned that there had been heavy workloads and frustration at the HUD office and consequently carelessness. The Working Group discussed how HUD and each PHA needs to be conscious of when errors are likely to be made, how to prevent them, and how to correct them. There was general agreement that the process of reconciling the numbers and sharing of information and processes made it easier for the PHA and HUD to get on the same page. There was consensus that no one wanted to see a net loss of units as a result of reconciliation and that there was a need for more transparency in sharing information and explaining the calculation methods. A Committee member asked who monitors the HUD staff and keeps track of any mistakes. She expressed concern about residents and families being hurt by mistakes.

The facilitator noted that the Working Group had recommended that correcting errors and resolving baseline controversies should be ongoing and PHAs should be able to raise questions of clarification. A Committee member suggested that any baseline resolution process needed to address the following questions: How will PHAs be notified that they can fix errors? What is the procedure that the PHA should follow? Who is the person at HUD to contact? He said there should be a notice sent to all PHAs with a clear and understandable procedure that each PHA can follow with appropriate dates and deadlines. Another Committee member asked if there was a reserve fund of money/units at HUD headquarters which can be used to correct mistakes made in allocations. HUD staff said that there was an account for renewals only but that fund is

also tapped by Congress for disaster relief, Bosnia relief, etc. Several participants noted that this Committee could recommend a reserve pool that can be tapped into for HUD-related emergencies and recapturing and reallocating unutilized budget authority.

Committee members asked a variety of questions about baselines, the patterns at PHAs, methods to help assure reconciliation and agreement between HUD and PHAs and how HUDCAPS might be utilized to address these issues. The working group agreed in principle that all PHAs should probably use the same date for purposes of setting the baseline and were hoping that the patterns and tendencies would become apparent when the data was analyzed. HUD and Committee members discussed the difficulties of data inconsistencies, different dates used, and insufficient methods to reflect real life numbers for the PHA. The facilitator summarized the following points that the Working Group raised about baseline: 1) need for a clear procedure for reconciling data on a case by case basis; 2) need to set single baseline date – probably 10/1/97; 3) options for resolving disputes about calculations.

A PHA representative suggested that HUD might return to using worksheets attached to the increment notice for each PHA. HUD staff stated that at this time the Andersen analysis was not being entered directly into HUDCAPS and that once the PHA and HUD agree on a correction or update then Andersen will report that information to modify HUDCAPS. Several Committee members observed that once the ACC notices stopped being reported on paper on the renewal notice PHAs lost the ability to see errors and make immediate corrections on their end or at HUD. As the Committee considers the recommendation to HUD, several participants noted that each PHA does not have the ability to spend time combing their archives and finding every error and that HUD should assign staff to do that.

When asked how many PHAs discovered errors during the reconciliation exercise, ten respondents said their numbers were off and of those four were overallocated. Another Committee member asked about the difference between 10-1-97 data and the year end data which each PHA usually has. HUD staff reported that the 10-1-97 baseline for HUDCAPS was taken from the settlement reports submitted by PHAs and that if PHAs submitted information not referenced to that date then that is a potential source for errors. However, another HUD representative stated that except for circumstances such as Santa Cruz, PHAs are usually off by 5% or less. He then asked what the cost or benefit might be for reconciliation to the “n-th” degree.

The Committee agreed that HUD needs to let PHAs know what they need to do and by what date they must do it, if they want to challenge an allocation determination. They said that if a PHA wants to undertake this process then they must make that decision knowing what possible costs and benefits could be. HUD staff reminded the Committee that the current baseline determination is based on the higher of either leased or contracted units and that if leased are off the families served under contract are still protected. This is a fundamental principle and policy based on the current law.

The facilitation team agreed to draft a proposed resolution of baseline issues over the lunch break. After the lunch break, the facilitators presented their draft proposal on resolving baseline issues. (See attached "Proposed Resolution of Baseline Issues" draft from June 2-3, 1999). The elements of the baseline reconciliation process included 1) provide update of ACC data using HUDCAPS; 2) synchronize accounting for incremental units; 3) specify source documents needed for reconciliation; 4) set dates/periods for source documents to cover and 5) set an end point/deadline for PHAs to challenge HUD baseline determination.

Several questions were raised about the proposed baseline resolution draft. Committee members asked whether the baseline date would be the same for calculating future renewals. Also, several members asked why there needed to be a threshold. They suggested that each PHA should decide if it is worth doing the work to undergo the appeals process. There were many comments made against a threshold. Several HUD staff commented that HUD may not be able to accommodate all requests for baseline reconciliation.

IV. REPORT FROM HUD FINANCE MANAGEMENT CENTER, KANSAS CITY

Robert Dalzell introduced Bernice Unland from the new HUD Finance Management Center (FMC) in Kansas City. She described FMC priorities as paying each PHA in full and on time. FMC deals with budgets and revising budgets (e.g. merged certificate and voucher programs); handling year end settlements; and managing the HUDCAPS data system. She noted that FMC is not 100% in Kansas City. There are 24 other offices around the country that are tied to FMC. FMC are still in the staff transition phase and new staff are learning procedures and policies. Ms. Unland said that they are eager to work with the PHAs and hope they will be running at 100% capacity soon.

V. WORKING GROUP MEETING UPDATE AND COMMITTEE DISCUSSION OF UNIT, DOLLAR AND HYBRID RENEWAL FUNDING SYSTEMS

CBI facilitator Michael Lewis thanked Ms. Unland and asked Ophelia Basgal to report on the Working Group's May 20 discussion about hybrid, dollar and unit approaches to funding allocation renewals. Ms. Basgal reported that the Working Group recommends the use of a 10-1-97 date for the mandate of serving families as stated in the law and that the Committee needs to decide how to determine how inflationary costs can be adequately projected. She described some alternate allocation formulas that Andersen had researched and noted that the Working Group did not find any that would be a good fit with HUD and PHA needs. For example, the block grants approach would jeopardize the stability of funding since it is easier to cut dollars than families. She said that the Working Group thought that PHAs seem to have more flexibility with a dollar based system and that the Committee needs to assess the merits of the different approaches.

The Andersen models (see handouts from May 20 working group meeting) were developed using 1995 as a base year and then forecasting for several years to compare with what actually happened for each PHA. They used each year's AAF as the inflation factor. Several Committee members pointed out that the scenarios being presented show sudden changes that may not be reflective or accurate of what really happens and that many changes are due to program mandates from HUD for example. One PHA representative wanted to know what happens if PHAs used their budget authority as a cap and then funded as many units as they could or wanted to as long as it did not fall below the 10-1-97 level. Also, what if their budget authority would not allow them to meet the 10-1-97 levels then would HUD address that on a case by case basis?

HUD representatives responded that when HUD asks for money from Congress for an annual budget, the request includes a reserve or excess amount. Congress has prohibited HUD from funding new units out of reserves so a dilemma is if outlays grow or accelerate and the reserves are used then who gets priority on the funds? They asked if the goal should be to save troubled PHAs or to expand/reward high performers. A representative of a small PHA said that using annual budget authority would not take into account multiple funding increments. If per unit costs go up dramatically then this is not necessarily a great model.

The facilitators summarized the Committee discussion about the merits of dollar, unit and hybrid approaches to renewal allocation. They agreed to draft a proposal seeking to combine the best elements of dollar and unit based approaches while meeting the concerns and interests raised by the Committee.

The facilitators summarized one of the proposals raised by Committee members. Then each PHA would decide to do whatever they want with their money, which is increasing each year, and then simply have to prove they are meeting the 10-1-97 mandate. If any PHA has excess money in a year, then that gets reallocated to meet the needs of different PHAs which are in need that year. In addition each PHA would be able to rebaseline at their request.

One Committee proposal used 1997 units as a floor and 1999 budget authority and then looks forward. Some participants commented that it is necessary to consider not only a rent-based AAF, but also sizes of units, kinds of waiting list families, and HUD programs and policies such as income targeting.

A PHA representative raised concerns about costs going up when the AAF is negative (dropping inflation). HUD responded that there should be adjustments that would not take away money in that case because if you had 10% cost increase and a 2% AAF you would still get an 8% increase and that the only danger would be if this pattern continued longer term then the number of units could be reduced. Another Committee member asked if there was actually a unit ceiling, that is if reserves are not accessible and you exceed the contracted amount, is there a limit on how many units you can lease. HUD responded that Congress and HUD do not care how many more units a

PHA leases as long as they do not spend more money. A HUD representative said that PHAs have discretion to squeeze out units but HUD has a baseline program based on appropriations calculated using units times costs and that is a boundary in these negotiations.

A representative of a small PHA asked whether each agency could have some reserves that are their own and if they exceed their own reserve cap then the excess (super reserve) dollars could be reallocated to a PHA with current needs. HUD responded that if PHAs are well managed then they should be permitted to continue. The Committee agreed it has to assess how long it is appropriate to have PHAs not spend dollars before it affects the national picture. A national housing advocacy group member suggested that since most of the discussion is about actual costs perhaps each local PHA should sort this out for themselves and HUD should just have some ACPU modification which always rewards for efficient management and quality performance. A member representing a large PHA emphasized that we know when the AAF is going up we are sure that the ACPU is going up similarly; but we can not say that when the AAF is negative the ACPU also goes down. If a local economy is in tough times then tenants have less money to spend on rent so actual costs are most likely to go up even though the AAF does not predict that. Other Committee members said these comments were important to pursue during the discussion of inflation factors.

Many members of the Committee requested that we assess tenant incomes, bedroom sizes, MTCS data, turnover, targeting requirements and other fluctuations when looking at factors that might help predict or forecast the future costs. The Committee agreed they need more information about refining the inflation factors. HUD suggested that a recommendation of the Committee might be about how HUD needs to look at future probabilities in its policy and budget development and assess how to better use MTCS data.

Several members suggested moving to rebaselining methods, reserves, and keeping HUD's current system and plug in authorized increments. A member representing a housing advocacy group said that the Committee and HUD need to determine how to look at performance factors in general terms. The HUD representative said that SEMAP might be helpful to correlate levels of performance. Several members said they want to get more information about how performance factors affect or should affect renewals and to make sure that PHAs are not punished for efficiencies. Some members suggested including language about never going lower than certain figures. HUD staff said that you will never get absolute certainty in predicting inflation factors but need to keep monitoring. A resident group representative reminded the Committee to remember the families they are serving and the recipients of these services during the negotiations.

The Committee discussed how to set a floor and that the baseline could be the actual budget authority using the 1997 budget authority with standard inflation to current and then give an option of rebaselining to the PHA. The Committee seemed to agree

that the most critical factor may be how to calculate accurate local and regional inflation factors.

VI. PUBLIC COMMENT

The facilitators asked if there were any comments from the public.

A visiting PHA representative raised questions about prospective appeals processes and how to address special adjustments such as April 1998 and reductions and the taking of reserve funds. He also said that the Committee needs to decide whether it seeks security to not lose units or other goals. Other comments were made about how to balance a desire for performance and efficiencies with circumstances that are often beyond the control of a PHA such as welfare to employment programs, income targeting, etc.

A guest from OMB raised questions about the various options for budget projections and baselining and suggested considering using 1997 and inflating that figure forward.

When asked to summarize what might be different from the current system in the Committee's evolving proposal, the facilitator stated that: 1) the unit floor would be the current 10/1/97 baseline and authorized increments; 2) the inflation factor would have something additional based on realities of shifting populations and circumstance, that is more than economic inflation; and 3) assess whether to use 1999 figures or 1997 adjusted forward to 1999 (due to anomaly of 1998 figures) and 4) some feature for rebaselining at the request of the PHA and 5) some statement about not being penalized and that you will have the opportunity to meet needs and then the liability for attrition if needed is on the local PHA. Several Committee members said the proposal should include a time period to revisit the proposal and that there is a desire to develop an efficiency improvement model.

HUD staff said they would need to review the numbers and that the rebaselining would be a healthy practice but not something that could be done every year but to set by a certain given date.

The Committee adjourned at 5:30 p.m.

DAY TWO

June 3, 1999

After a summary of the previous day and a review of the agenda, the facilitators helped the Committee review the proposed baseline reconciliation process document. Several new issues were raised about the proposed baseline resolution or reconciliation process. HUD staff said that they would probably have to hire a contractor to do the work. Several committee members suggested deleting reference to thresholds and asked that we assess the six month time frame. HUD said they were reluctant to commit to any proposals until they have a sense of the volume of work involved. A PHA representative asked whether HUD would hold harmless PHAs.

Larry Susskind explained that the proposed process leaves the baseline challenge to the discretion of the PHA. HUD staff said they will do a careful review first. A member suggested adding a sentence about the need for each PHA to acknowledge receipt and certify whether the numbers are more or less than expected. This will allow the PHAs to know how to allocate resources and for HUD to be on notice. Another member said he had no concern about a six month period and that this might be a legitimate use of project reserves. The notion of staggering the process was mentioned. A small PHA representative asked that staff be made available since a lot of PHAs do not have resources. The facilitator said that during the time of the challenge there may be a need to use reserves. Several Committee members suggested adding detailed worksheets to avoid mass confusion and keep people on the same page. A representative of a national housing advocacy group encouraged the Committee to agree that the process should not exceed six months and that to the extent more time is needed that could be handled. HUD responded that on its face the "not to exceed six months" language was fine but they needed to clarify and make sure that it will not interfere with paying PHAs. Many people agreed that there needed to be a better sense of the workload involved in the proposed process. Several members and HUD staff agreed that the errors may not be that significant and most will be off in small amounts.

VII. REVIEW PROPOSED RENEWAL FUNDING SYSTEM

The facilitators handed out a draft of a proposed hybrid allocation system based on the Committee's conversations.

See Attachment 2, Draft Proposed Hybrid Allocation System

One presumption used by the Committee is that each PHA will have the option to choose and that neither option could lead to an overall increase in the total Section 8 budget. The Committee reviewed some of the Andersen models and projections and HUD reminded people about the need to be budget neutral and that there are some PHAs overfunded. Several issues were raised about how any proposals will affect HUD's obligation to calculate budget projections two year ahead. A housing advocacy group representative stated that it was not clear how to deal with budget

appropriations and a formula that is going to work within a budget. Several members said they thought we left yesterday with the option of permitting the PHA to choose between dollar and unit based approaches. The HUD representative said they would need to assess the administrative feasibility if there is a switch from year to year. The facilitator reminded the Committee that a principle stated was that the Committee was trying to give choice to each PHA without affecting the overall budget.

HUD stated that a major concern whatever the Committee's recommendation is that there not be excessive amounts of budget authority. Since some agencies underleased or are tied up in litigation, demolition relocation not on line yet or other exclusions there is a concern about excessive authorized budget and the perception of Congress. A small PHA representative said that we should redefine and give PHAs an opportunity to get as many units under that budget authority as possible understanding they are always a year behind and when they do not have money in the account they should make adjustments. This would be consistent with the push for self sufficiency.

Another PHA representative said that we need to restate this as meeting the need and assisting the families. A Committee member said that the Committee and HUD would have to educate Congress about these issues and help them understand that the fears of the past are not here and that this is a proposal to serve needs within the budget and are not an entitlement for PHAs.

The facilitator summarized and suggested adding three elements to the draft: 1) recapture; 2) developing some kind of national reserve to handle fluctuations; and 3) none of what is said here is meant to create an entitlement. Gloria Cousar said that HUD still has a commitment to replenish the two month reserves and that a national reserve might be able to serve two purposes: 1) to replenish reserves and 2) create an ability to deal with very strange aberrations on a case by case basis.

A Committee member observed that with a dollar based system we can not arrive at an AAF that is acceptable yet we can with units. Several participants said it is impossible to apply an appropriate AAF in dollar based systems. HUD representatives stated that it would help to not refer to additional dollars because of the impression it creates and that we should collect data on waiting lists. A resident representative raised concerns about any recapture discussions and for the Committee to stay aware of the impact on families.

A Committee member observed that the two sections of Paragraph 3 of the proposal could be diagrammed as a formula:

3 (a) 1997 baseline # X (ACPU FY 1998 X AAF)

3 (b) 1997 baseline # X (ACPU last FY X AAF)

After the addition of a preface and further review and refinement of the draft proposal, the Committee moved to consideration of the Inflation Factors relevant to this prospective rule. The Committee agreed that this draft will be the working document for negotiations on allocation.

VIII. WORKING GROUP REPORT AND DISCUSSION OF INFLATION FACTORS

Shawn Pride from Andersen Consulting reviewed the models of dollar based and unit based systems and their analysis of cost adjustment and inflation factors. A small PHA representative observed that one option gives more protection to local PHAs and the other makes the inflation factor critical.

The Committee members discussed the issue of how Congress might perceive these proposals. Some thought Congress would not care about units squeezed from budget authority but would see costs and say they do not need to fund as much. Several people began to ask what two year and three year AAF might look like for predictability.

After a break, the facilitators refocused the Committee on the discussion of inflation and cost adjustment factors. A Committee member stated that the fear of going to Congress with more units with the same dollars is a real issue. He said that one system cannot work for everyone and that it works because of how well you manage waiting lists updates and selections. Other committee members said that issues such as tenant incomes, bedroom size, rent control, and many others need to be considered in discussing the renewal proposals.

HUD staff said that rent control to the extent it allows higher rent increases can get a special AAF which PHAs need to seek. HUD agreed to get a copy of the policy on special AAF's for situations such as rent control. Others when describing how the different models affect smaller PHAs differently said two other factors need to be addressed: welfare to work and 75% of 25% models for income targeting. Another member asked where exception rents will fall and how to deal with changes in the rental housing markets.

When asked by the Committee the Andersen staff said that when the AAF is compared with the National Inflation Factor the AAF seems more precise. They said that AAFs are based on changes in residential rents from one year to the next using data from the CPI. Amanda Dougherty explained the different inflation factors and how they are determined. She reviewed the RDD (random digit dialing) in regions that were not covered by CPI (Consumer Price Index) from the 99 HUD regions. Several Committee members noted that an earlier HUD presentation explained that some of the regions are multi-city or multi-state and that it does not reflect all communities. Another member said that this data is often outdated by 18 months or more.

Committee members asked whether there would be any more analysis pertinent to local methods of determining factors. After review of the Andersen models about inflation factors and models, the facilitator asked how the Committee can make a decision about what sources to use for inflation factors. He asked if you take actual costs data for several years and did a factor analysis (regression analysis, chi2) what would we find? The Committee agreed that it needs to know what the relative values of various factors are. The Andersen staff asked if we are going to ever pick an inflation factor that is perfect. The test would be to see how consistent we can be in predicting the next year's costs. Shawn Pride said that they could begin looking at MTCS data and demographics. There was general discussion about the data used, methodology, reporting rates and statistical validity of the results.

The facilitator summarized the discussion and asked what factors are worth considering. These factors should be analyzed and compared with each other. A Committee member asked how timing might affect the inflation factors, that is where the data is from and for what periods. Another member said that we need to look at the right data and discern whether they have any predictive value. We need to do this for a number of years and then across years.

A HUD representative emphasized that HUD hopes that this is where MTCS data will be more useful especially if the reporting rates are good. Another HUD representative said that we need to be careful with the ACPU because it can include administrative fees. An alternate asked about the prospects of doing a regression analysis and determining the relative weights and predictive values of factors. A representative of a disability rights advocacy group asked whether the local factors will include everything we should or should we include other variables. She mentioned consolidated plans and that each PHA plan has to be consistent with that and these plans include state and local data. There were other questions raised about whether we were making it more complicated than it needs to be.

The facilitator stated some general principles that seem to apply- 1) local factors are preferable to national factors; 2) seek factors that predict closest to actual costs. A HUD representative suggested a "multitrack" approach that might use more than one kind of inflation factor. The HUD representative mentioned that states may also be sources of data on inflation factors.

Another HUD representative said that if we all keep working the MTCS will be a tremendous national database. The Committee agreed that they need to know what forecasts well. Are there ways to improve an AAF? A PHA representative asked about how to address reserves and develop a two month local and a national reserve to address the case by case anomalies. Committee members discussed other suggestions for Andersen's next stage of analysis. Some people pointed out that the predictive value of historical data may not be there since there have been so many changes in policy such as income targeting. The data may help but not all of the analysis can be done

before October 1999 and this Committee's schedule.

After a lunch break, the Committee reconvened. The facilitator asked if everyone could get data. He wondered whether we can put our hands on that data and be very clear about what we might be able to do in the short term to improve AAF. The Committee agreed that we need to do our homework and test different approaches. We might take actual cost data for three previous years and show trend that predicts the next year or not. The facilitator observed that the Committee believed that actual costs are what we are trying to get closer to with an accurate AAF. Andersen agreed to do these calculations and perhaps take a random sample not attributed to the PHAs in the room. We will have to address the relative weight of the factors. If there are data sources you trust, please share the information.

Several Committee members asked to compare actual cost to see how predictive they are of the future. A HUD specialist on these issues noted that it would probably not predict well and yet should be analyzed. The Committee discussed how to address the relative weight of inflation factors.

A resident representative asked for clarification on the reserve recapture policy. HUD explained that recapture is for excessive unused reserve funds beyond the dedicated two month reserve. HUD's policy is to restore the two month reserve to PHAs at the beginning of the year. And this grew out of solving the old problem of unused budget authority. In addition, there are items that would be excluded or excepted from recapture. Several participants asked whether it would be HAP [payments plus administrative fees in the calculations.

The Committee agreed that the conversation was back in line with the need to serve a minimum number of families and not look for a bail-out from HUD. A PHA representative asked if they are unable to serve the number of baseline units/families and these factors are not allowing them to meet that mandate, what should be done then? A HUD representative said that using the ACPU adjustments and admittedly going back two years there will be enhancement factors and that in the initial year may not be able to house as many but the ACPU should be less next time and then help adjust to a balance. Another HUD representative said that having a choice would give you the responsibility to live within your means.

Members asked about the impact of deconcentration efforts and meeting HUD's mandates. A PHA representative asked how do we adjust for any errors and omissions? When asked if this meant errors in audited statements from IPAs. Comments were made about the variation in quality of IPA work and the need for audit insurance. An advocacy group representative noted that the actual cost figures could be two years old and this should be considered in the negotiations.

The facilitators summarized the inflation factor review and noted that the Committee is trying to assess what factors have predictive value and that if there were not an AAF,

adjustments would be based on previous year's costs. The Committee agreed to have Andersen run several new models to analyze options. The Committee then turned to a discussion of administrative factors that need to be considered during the negotiations.

IX. DISCUSSION OF ADMINISTRATION/IMPLEMENTATION ISSUES

The Committee discussed the list of issues related to administration and implementation of a new rule that needed to be reviewed. The following list was developed:

ADMINISTRATIVE ISSUES

Portability (effect on unit numbers)	Streamlining of renewal/increment process
Loss of fees	Welfare reform
Linkages to submitted reporting of PHA plans (annual – five years)	Other mandates
Reserves	Performance and management effectiveness
Local	SEMAP administration
How long? 2 Months?	Criteria/indicators
Replenishment	Link to flexibility/reserves
Restrictions on use	Link to SEMAP
Use of recaptures to redistribute	PHA access to HUDCAPS (revisions)
Performance links	Review of MTCS Data elements
Central reserve	FSS Escrow Accounts
Ties to OMB/HUD budget process	HUD staffing and budget implications
Income targeting	Administrative errors
Deconcentration	Impact of admin errors and how these will be handled in the renewal process
Unified point in time	Errors by both HUD and PHAs

HUD staff stated that there has not been any new appropriation since 1995 and that the Secretary hopefully would be successful in securing additional units. The Committee discussed the issues and clarified what they mean and where some were not within the scope of this negotiation such as FSS renewals which is a budget line item set aside. A PHA representative mentioned the move to home ownership with vouchers. Questions about HUD staffing resources were also raised.

The facilitators said they would review the list and cluster the issues for further discussion and review, possibly in the Working Group. A member asked for assurance that we are still talking about getting the money needed to assist the minimum number of families as of 10/1/97. The facilitators said they would edit the Proposed Hybrid Allocation System and refinement of the current system approach. Concerns were raised about not losing the feature of guaranteed dollar based. HUD staff said that this

seems to really be dollar and unit based and the best of both systems and has potential to be more expensive in later years. The past concerns from Congress about management and overleasing and the criticism of practices was reiterated. HUD stated that it could not make a commitment yet and would review the proposals.

Some participants asked the Committee to consider the need for reserves beyond the two month cap. A small PHA representative noted that if PHAs fully utilize their funds then they would have 3-5% of their reserves to cover. Committee members acknowledged they were headed in a direction with which they were comfortable and agreed on a June 14, 1999 date for a Working Group meeting for all who are interested. The facilitators said there were drafting issues and they would playback the revisions. When a Committee member said they did not want to hold to the 10/1/97 units, HUD responded that we want to guarantee the same capacity to serve.

Another Committee member said that the whole idea is if HUD though its agents meets Congress' mandate as needed on an actual cost per unit and if the ACPU change then if you are down you keep and house more and if you are up then there needs to be relief to meet the mandate. Committee members emphasized the need to understand the workings of reserve policy and how recapture of excessive unused budget authority will be used to serve other families in need. HUD noted that if the particular PHA can not meet the mandate., then others will compensate and HUD is not necessarily going to go back when the national mandate is being met for the 10/1/97 aggregate number.

X. PUBLIC COMMENT

The facilitator asked if there were any comments from the public and visitors. A representative from a large PHA said that it seems the option or choice proposal could address extreme circumstances and needs to be more artfully worded than "higher of" of "either/or". The facilitator clarified the proposal as stated so far and emphasized the principle of local flexibility inherent in the proposal. Another member responded that if you see that when the funds you had times AAF are not sufficient then we need to work with HUD to go to Congress to address Congress' mandate and get sufficient funds. This would not need to be done unless the national minimum number is not being met.

A representative of a national advocacy group stated that we could avoid two problems encountered by HUD in the past: 1) if you get a dollar inflated and unless insufficient to meet the mandate could avoid the politics of "higher than." In addition, 2) if the actual costs to the PHA can not serve the 10/1/97 then the increase is subject to the overall budget. This seems to achieve what people are seeking. A HUD staff representative said that this had some appeal and that this should be considered. Another public comment was that if AAF calculations mirror real costs the budget based and dollar based seem to become the same.

The facilitators proposed that the Working Group pursue several of these issues and report back to the full Committee. Volunteers for the Working Group were identified.

The facilitators reminded the Committee that the next Committee meeting was scheduled for June 21-22, 1999 at the Dulles Washington Hilton and that a Working Group would convene on Monday, June 14, 1999 at HUD headquarters.

The Committee adjourned at 4:00 p.m..

Attachment 1
HUD HOUSING CERTIFICATE FUND
NEGOTIATED RULEMAKING ADVISORY COMMITTEE
JUNE 2-3, 1999 MEETING
LIST OF ATTENDEES

**COMMITTEE MEMBERS AND
ALTERNATES**

Robert Dalzell (Committee Secretary)
Gloria Cousar
Greg Kern
Mary Ahern
Roy Ziegler
Ophelia Basgal
Barbara Sard
Mary James
Julio Barreto
George Pilla
Joe Wheeler
Helen Lang
Virgil Tinklenberg
Becca Vaughn
Marlene Kwitowski
Michael Proctor
Gary Coates
Linda Campbell
Nancy Lynchild
Steve Renahan
Gary Leblanc
Larry Valencic
Cheyl Wegner
Glen Redding
Paul Dettman
Betty Bjork
Bob Cohen
Booker Jones
Wanda Montgomery
John Pettis

**NON-COMMITTEE MEMBERS AND
OBSERVERS**

Garth Rieman
Calvin Parker
Jim Jordan (OMB)
Mr. Codey (New Community
Corporation, Newark NJ)

HUD STAFF:
Bernice Unland
Deborah Hernandez
Mary Conway
Jerry Benoit
Joe Reilly
Bill Gilliland

ANDERSEN CONSULTING TEAM:
Shawn Pride
Allie Arrien
Amanda Dougherty
Cassandra Holley

FACILITATION TEAM:
Larry Susskind
David Fairman
Tom Fee
Michael Lewis
Kelly Davenport

Attachment 2
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DRAFT PROPOSED HYBRID ALLOCATION SYSTEM

PHAs should be encouraged to manage their Section 8 programs in an efficient manner that allows them to serve the maximum number of families possible within their budget allocation. In light of this, the Committee, having reviewed several unit- and dollar- based renewal funding systems, proposes the following refinement of the existing HUD allocation system. The proposed system has five parts.

1. Minimum number of families served

Each PHA must continue to be supported at a level sufficient to continue to serve, at a minimum, the number of families that it was serving as of 10/1/97, taking into account as well of upward adjustments for incremental assistance and additional families authorized subsequent to that date.

2. Annual Adjustments

HUD will adjust annual renewal funding for each PHA based on

- a) changes in the incomes of the population being served and its housing needs
- b) changes in the cost of rental housing available to the population served.

3. Budget Allocation

Each PHA will continue to receive annually an allocation determined by a) adjusting for the previous year's actual cost per unit month leased to account for changes in tenant incomes and changes in rental housing prices (as described in part 2 above) and b) multiplying the adjusted actual cost per unit by the 10/1/97 final baseline number of units.

4. Recapture of Unused Funds

At the end of each fiscal year, HUD will recapture all allocated funds that have not been committed by PHAs. These funds will be used in subsequent years to (1) replenish PHA project reserves to at least a two month level, and (2) supplement the funds received by selected PHAs (to be reviewed on a case by case basis) to take account of severe aberrations in PHAs actual costs in any given year. Given the availability of

funds, these new allocations may also be used to support high performing PHAs who demonstrate an ability to use additional funds effectively.

5. No entitlement to support for additional units or households

Even if PHAs are able, through efficient management, to serve additional households in any given year (above their baseline), any such additional units supported will not become part of any PHA's baseline allocation or responsibility. [PHAs which, for whatever reason, are unable to serve their baseline number of households will require special HUD attention and assistance.]

